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RESEARCH ARTICLE:

Student Loan Debt Challenges and the Implications of Consumer Protection Legislation: A Case Study of a South African University

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Abstract

The apartheid system, with its racial policies and unequal school funding, undeniably led to educational and social disparities that limited access to higher education (HE). To facilitate access, governments and financial institutions have introduced student loan schemes to help students with tuition fees and related costs. However, there can be severe consequences if students fail to make timely repayments, and they may face challenges when dealing with loan contracts. This article examined the impact of consumer protection legislation on student loan debt challenges in South Africa's HE sector. A survey was conducted to gather data from a sample of 380 students at a selected university. The findings revealed that many respondents were unaware of the consequences associated with unpaid student loan debt and that they faced certain challenges, such as inequality of bargaining power, not understanding the terms of standard form student loan contracts or concluding them without fully reading the terms and conditions therein. This lack of awareness placed these students at a disadvantage. Misconceptions about student loans and repayment responsibilities were also prevalent. Students also faced barriers such as high legal costs for contract review and have a limited knowledge of consumer rights, exacerbating the issue of unreasonable or unjust contract provisions. To address these issues, the article argues for improved protection for students and enhancements to the student loan system by introducing consumer education programmes; offering mandatory counselling before loans are granted; and providing financial education workshops or seminars.

Keywords: *student loans; consumer protection; contractual challenges; vulnerable groups; consumer challenges*

Introduction

Over the years, the student loan debt crisis has become a serious concern globally, with millions of graduates carrying the severe burden of financial obligations that hinder them economically and in terms of their well-being (Gayardon *et al*., 2018). In South Africa, Shange (2018) described the HE financial landscape as complex and influenced by historical socio-economic inequalities. As more students rely on loans to access higher education, the challenges they face with repayment (Naidu, 2021) and understanding the contractual agreements that bind them have intensified (Safier, 2018). This article examined the student loan debt challenges faced by students at a selected South African university and highlighted the implications of current consumer protection legislation. Both the Consumer Protection Act 68 of 2008 (CPA) and the National Credit Act 34 of 2005 (NCA) aim to protect consumers and provide a basis for fair lending practices. However, there are gaps in the legislation that leave borrowers vulnerable to unfair lending practices and unmanageable debt levels.

Prior to 1994, there was unequal access to HE for disadvantaged black people (Ocampo, 2004). Although access has since improved, presently, many students still faced a lack of financial resources, implying that they rely heavily on student loans, which often result in student debt (Vaicondam and Wen, 2020). Student debt is increasingly re-shaping young adults' lives, delaying milestones such as starting a family and buying a home (Greene, 2024). According to Mabuza (2019), this debt also affects the broader economy as the government must often cover the unpaid fees owed to universities in order to keep them operational. As a result of such debt, students face

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numerous challenges such as being barred from continuing their studies due to financial constraints, having their results withheld until debts are paid, or being unable to graduate due to unpaid loans (Swaniker, 2017). Despite strides towards equity and diversity, further improvements are needed to ensure equal access and opportunity in South African higher education, especially in terms of funding and the implications thereof. This article aimed to address the gap in research on these contractual challenges, and explores the extent to which consumer protection laws, such as the CPA, safeguard students in loan agreements. By raising awareness of these issues and identifying gaps in current legislation, the article sought to contribute to a future with less student debt, benefiting both individuals and the broader economy.

It is important to mention that before 1994, millions of South Africans faced multiple forms of inequality, including forced relocation, income disparities and unequal access to education, all of which severely impacted access to HE (Ocampo, 2004; Fogel, 2019; Leibbrandt, 2021). With the transition to a democratic system, South Africa undertook a significant shift in educational policy, aimed at promoting equitable access to education for everyone (Boughey and McKenna, 2021 cited in Mokgotho *et al*., 2023). Currently, despite progress toward equity, financial resources remain critical for students to continue their studies, and many rely on loans, thus leading to student debt (Vaicondam and Wen, 2020). However, the failure to make timely repayments can have significant consequences (Singh, 2012 cited in Shange, 2018). Furthermore, students as consumers in HE (Reddy, 2012) face challenges such as unclear contract language or unfair terms when signing loan agreements (Sharrock, 2010). Although the South African CPA defines consumers as those purchasing goods or services (South Africa, 2008), which includes student loans, there is limited research on whether these contractual challenges contribute to student debt. By the late 1990s and early 2000s, student debt in South Africa had reached R5.5 billion, driven by rising university costs and reduced government subsidies (Naidoo and McKay, 2018). Although financial aid can improve academic performance, there were concerns that simply increasing funding would not necessarily lead to better outcomes (Richardson *et al*., 2009). Students often struggle to repay loans due to high interest rates or a lack of family support, which may force them to take part-time jobs, thereby negatively affecting their studies (Hesse, 2017; Yanbarisova, 2015). Moreover, banks hesitate to provide student loans due to low household incomes and high interest rates, which can reach up to 40% (Swaniker, 2017).

HE in South Africa has recently attracted significant attention due to unprecedented student protests against increasing tuition fees (Tjønneland, 2017). While basic education is a right, HE is not, requiring students to secure their own financial resources (Mathibe and Zhou, 2023). According to Yende and Mthombeni (2023), South Africa has long struggled to provide affordable and accessible HE to its citizens. The high cost of tuition has prevented many students from pursuing their academic goals and reaching their full potential, both personally and professionally. Without bursaries, young people from low-income homes often resort to student loans to fund their further studies. Consequently, many young graduates and students accumulate debt that they must repay, whether or not they complete their education. Farrington (2019) reports that students often find themselves overwhelmed by debt that they cannot repay. Students' inability to make timely payments can result in blacklisting or a poor credit rating (Singh, 2012 cited in Shange, 2018). This can affect a student's ability to save for the future or secure loans for a house (Greene, 2024). Becker (1968 cited in Janko and Popli, 2015) explains that credit scores impact employability, leading to broader national issues like rising unemployment and crime rates. *Caveat subscriptor*, a legal principle applied in South African courts, mandates that a party who signs a contract must adhere to its terms, regardless of whether or not they have read them (Govinden, 2012). Low education levels (Stoop, 2013), poorly informed consumers and a limited understanding of legal terms (Sharrock, 2010: 12) have led many South African students to enter into unaffordable credit contracts, with severe consequences if they fail to comply.

The CPA aims at establishing a fair and accessible market for consumer goods and services, national consumer protection standards, and various consumer rights (Reddy, 2012). In terms of the definition of "a consumer" as set out in the Act (Section 1), a student is regarded as a consumer, thus entitling students to consumer protections in the context of student loan contracts. Consequently, examining the CPA's impact on student loan debt in South Africa's HE sector is of tremendous importance. This article explored student loan debt challenges from the perspective that students should be afforded consumer protection under the CPA. This article aimed to examine the implications of the Consumer Protection Act for the challenges pertaining to student loan debt using the findings from an empirical study. The article's objectives were to examine the challenges faced by HE students regarding student loan contracts and the resulting debt, and to analyse the implications of the Consumer Protection Act 68 of 2008 with respect to such challenges.

Literature Review

Historical inequality in South Africa has deeply affected access to HE. According to Chisholm (2004 cited in Shange, 2015) the segregation experienced by millions of South Africans has led to unequal resource distribution across all educational levels, including universities. Post-apartheid, efforts were made to rectify these disparities through policy reforms (Bunting, 2004, cited in Mzangwa, 2019; Pandor, 2006, cited in Hlalele and Alexander, 2016). However, the majority of South Africa's black population, especially the poor, still face challenges in HE (Mzangwa, 2019). Although initiatives like the National Student Financial Aid Scheme (NSFAS) aim to provide financial aid to disadvantaged students (Jackson, 2002), flaws persist in funding Historically Disadvantaged Institutions (HDIs) and supporting students from marginalised backgrounds (Odhav, 2009). The focus of this review is on existing literature related to student loan debt and the impact of consumer protection laws on the challenges associated with such debt.

The National Credit Act 34 of 2005 is aimed at safeguarding consumers and promoting responsible credit granting and forbids reckless credit granting by promoting a fair and non-discriminatory marketplace for access to consumer credit. It also prohibits certain unfair credit and credit-marketing practices. The CPA (South Africa, 2008) advocates a fair and accessible market for consumer goods and services. It also establishes national standards for consumer protection and raises the bar for agreements and transactions involving consumers (Reddy, 2012). In essence, social justice extends beyond legal systems to include equitable access and inclusion in all aspects of society, including HE. It advocates for equal rights and opportunities for all individuals (Hlalele and Alexander, 2016). Hlalele and Alexander (2016) further argue that while expanding access to education is important, it must be balanced with offering appropriate opportunities and support to ensure student success. However, disparities in educational preparation often hinder students' ability to navigate university life effectively (Wilson-Strydom, 2011). This lack of focus on students' capabilities contributes to academic underperformance, student loan defaults, and widening gaps in academic achievement amongst different demographic groups (Hlalele and Alexander, 2016; Wilson-Strydom, 2011). Letseka (2009, cited in Shange, 2015) notes that many students are leaving university before completing their undergraduate degrees. Financial barriers exacerbate these challenges, with many students from lower socio-economic backgrounds being unable to afford HE due to steep tuition costs (Manik, 2014; King, 2019). The NSFAS aims to mitigate this situation by providing loans to disadvantaged students (de Villiers, 2012). However, despite government support, accessibility to HE remains limited, with only a small percentage of South Africans holding bachelor's degrees (OECD, 2014, cited in Webb, 2019). Consequently, students often turn to loans, including those from NSFAS, to finance their education, thereby leading to significant debt burdens and adverse consequences (Dana, 2015).

As more students rely on loans for HE, student loan debt is rising globally. In South Africa, student loan debt has reached unprecedented levels (de Gayardon *et al.*, 2018), increasing from R14 billion in 2019 to R16.5 billion in 2021 (Van der Merwe, 2022). Unpaid student loans can lead to severe consequences, including non-completion of studies; withholding of results by institutions; blacklisting; poor credit scores; and disqualification from job opportunities. Emotional problems and poor academic performance may also occur (Blumberg, 2018). Financial challenges cause 70% of university dropouts (Letseka and Maile, 2008, cited in Garwe and Maganga, 2015). Student loan debt is influenced by various factors, including the challenges that students encounter with loan contracts, such as difficulty in understanding contract terminology (De Stadler and Van Zyl, 2017). According to Stoop (2013), many South African consumers face significant risks from unaffordable credit agreements due to power imbalances, low literacy levels, uninformed consumers, poor disclosure, and deceptive marketing practices. These challenges extend to HE students dealing with student loan debts and contracts. Due to limited South African research in this area, international studies and general consumer literature are included. Barnes (2012) states that student loan agreements in HE often place students at a disadvantage due to an imbalance of bargaining power. These agreements are typically structured as ‘standard form’ contracts, with the terms set by lenders or institutions offering little room for negotiation. As a result, students are forced to accept contracts that heavily favour credit providers, which can contain unfair or one-sided provisions (Reddy, 2012; Sharrock, 2010). Compounding the issue, these contracts often use complex technical language that students struggle to understand, leading many to sign without fully comprehending the terms (Reddy, 2012). This lack of transparency renders it difficult for students to make informed financial decisions, and many fail to read or grasp the implications of the contracts they are entering into (Newman, 2010; Elshout *et al*., 2016; Govender, 2017). Additionally, some students are unaware of the consequences of defaulting on their loans, further complicating their financial situations post their graduation (Safier, 2018; Mapunda, 2019; De Stadler and Van Zyl, 2017).

A broader problem, according to Mugobo and Malunga (2015), is the lack of awareness about consumer rights, which makes students more vulnerable to predatory practices. Additionally, many students do not have the resources to seek legal advice or challenge unfair contract terms as legal assistance is often expensive and inaccessible (Mason, 2007; Woker, 2010; Priya and Sundaram, 2022). This results in students remaining trapped in unfavourable agreements with little recourse.

Social justice is a concept that is relevant to the contractual challenges faced by students with student loan debt. Gair and Baglow (2018) highlight that the concept of social justice in post-secondary education has deep historical roots, with key examples being increased university accessibility and the inclusion of diverse student populations. This in turn fosters a more equitable society. Moreover, social justice in HE entails providing equal access without discrimination based on race, disability, culture, gender or other characteristics (Hlalele and Alexander 2016). With respect to student loans, fairness in contracts and awareness of their consumer rights have significant social justice implications for such HE students. Hence, this article is based on the Social Justice Theory, which implies that the law has to ensure fair and equal opportunities in the lives of people, and that they are uplifted to an appropriate level (Freiman, 2012). Consumer protection legislation aims to shield consumers from unfair practices and promote transparency, addressing the inequality of bargaining power between students and credit providers. Sections 63(1) and 64 of the NCA ensure that students receive documents in an understandable and plain language (South Africa, 2005). Although students may lack bargaining power, they have the right to access all necessary information to make informed decisions. The CPA (Section 48) acknowledges the use of standard-form contracts, recognising the impracticality of negotiating individual contracts for each consumer, but prohibits unfair, unreasonable or unjust conditions within them. The Act (Section 48) prohibits unfair terms in standard-form contracts, barring unreasonable payment terms and the coercion of students into waiving their rights or accepting unfair obligations (Fitzroy, 2011; Kanamugire, 2013; Reddy, 2012). In addition, Section 41 prevents suppliers from misleading consumers through exaggeration, ambiguity, innuendo or deception regarding material facts (South Africa, 2008). With respect to the challenge of contracts not being in plain and understandable language, Section 22 of the CPA and Section 64 of the NCA mandate that credit providers use plain, understandable language in contracts, ensuring that typical consumers with average reading and comprehension skills and minimal experience can easily comprehend the content (South Africa, 2008; Reddy, 2012). This right requires reducing the use of legal jargon in an attempt to facilitate consumer understanding (Stoop and Chürr, 2013). Sections 40-42 of the CPA emphasise the right to fair and honest dealing, preventing deception through false, misleading or fraudulent representations (Telicka, 2004). Section 41 prohibits the use of exaggeration and ambiguity in material facts. Credit providers must ensure that vulnerable consumers, like students, understand contracts to prevent misconceptions due to ignorance or illiteracy (Jacobs *et al*., 2010).

Furthermore, under Section 48 of the Act, providers are prohibited from offering products or services with unreasonable or unjust costs or conditions (Naudé, 2009; Reddy, 2012). This ensures that student loans are not subject to unreasonable conditions that may disadvantage students. However, students may struggle to comprehend legal terms, thus emphasising the importance of clear and understandable communication in contracts (Fitzroy, 2011). Without this provision, students may unintentionally agree to terms that harm their interests. Consumer legislation indirectly addresses the challenges arising from consumers' failure to read contract terms by promoting plain and understandable language in documents (Newman, 2010). However, complex terms remain problematic for semi-literate consumers and students, potentially leading to misunderstandings and unnecessary student loan debt (Mogaji *et al*., 2019; Van Schalkwyk, 2014). Students' lack of awareness of default consequences underlines the importance of contracts being in plain language, aligning with the CPA (Reddy, 2012). However, challenges arise from the high costs of legal assistance as there is no specific provision addressing this challenge, leaving students vulnerable to unfavourable terms (Van Schalkwyk, 2014; Newman, 2010). Studies have been conducted on various aspects of student funding and related challenges (Mokgotho *et al*., 2023; Yende, 2021). However, such studies have not focussed on student loan debt challenges, the contractual challenges that students experience in South Africa, or the implications of consumer legislation. Hence, there is a need for such investigation.

Methodology

The article adopted a quantitative research approach to effectively describe the characteristics of a large population and ensure a rigorous analysis of survey data. This method was selected for its ability to produce valid and reliable findings with speed and efficiency, even with a large sample size. The researcher used a questionnaire, predominantly quantitative in nature, as the primary data collection tool to address the article's objectives. A descriptive research design was chosen to gather information on the current state of student loan debt and relevant consumer protection laws in South Africa. This design is particularly suited for new or unexplored areas, such as the impact of consumer protection legislation on student loan debt challenges. The data collected from the selected university included students' knowledge of their loan amounts, awareness of their rights under consumer protection laws, and the difficulties they encountered with student loan contracts. Additionally, an explorative research design was used due to the limited extant studies on this topic. The article aimed to provide new insights into student loan debt by exploring the challenges that students face when completing loan contracts, their awareness of the Consumer Protection Act (CPA) and National Credit Act (NCA), and other relevant issues. A survey research design was employed, with a questionnaire designed to capture information on students' awareness of unpaid loan consequences; challenges related to loan contracts; and their consumer rights. Given the constraints of time and resources, a case study approach was also applied, focusing on student loan debt within a South African higher education institution (HEI). The research targeted full-time students with student loans at the selected university.

The target population for the article was 33 000 students at the selected institution and for such population size, a sample size of 380 is suggested in terms of the table provided by Sekaran and Bougie (2016). A list of students with student loans was requested from the university and questionnaires were sent randomly to students on the list. Through the use of probability sampling, the risk of bias was reduced. Altogether, 306 completed questionnaires were collected (an 80% response rate). A pre-test with 15 students refined the questionnaire, and the final survey used a five-point Likert scale to assess student challenges and awareness with questions derived from existing literature. The first part of the instrument focussed on biographical information. The next section related to contractual challenges in respect of student loan debt, followed by the awareness and understanding of various consumer rights in terms of legislation. Data was analysed using SPSS version 27.0. Statistical analyses, including Chi-square tests, were employed to interpret the quantitative data. In addition, descriptive statistics were used to derive insights, with frequencies presented in graphs and tables where relevant. Additionally, inferential statistical analyses were conducted as part of this article.

The research process adhered to university policies and guidelines concerning human subjects, obtaining written consent from the HEI where data was collected, and ensuring voluntary participation. As described by Mafuwane, (2011), confidentiality was maintained by discreetly processing and storing respondents' information. Participation was anonymous, and the data collected is strictly confidential and used solely for this article's purposes. This article was confined to students from a single university, limiting the generalisability of its findings to other universities in South Africa or HEIs in general, especially given the selected sampling method. The accuracy of the article's findings relies on the honesty of the respondents. Additionally, time and financial constraints posed limitations on the article since it had to be completed in a restricted timeframe and only at the selected institution.

Findings and Discussion

The quantitative study involved administering questionnaires to 384 students at the selected university, with 306 being returned, resulting in an 80% response rate. All respondents were university students with loans. The findings are categorised into sub-themes, namely contractual challenges relevant to student loans and implications of the Consumer Protection Act 68 of 2008. To ensure precision in the study, both reliability and validity were carefully addressed. Face and content validity were established through expert input, while a pre-test involving 15 students helped identify potential measurement errors, poorly written items and non-verbal cues. Additionally, factor analysis was used to assess validity.

Reliability was ensured through a pre-test of the questionnaire, during which participants provided feedback on the appropriateness, language and clarity of the questions. These pre-test participants did not participate in the main study. To further confirm reliability, Cronbach's alpha test was used to assess the consistency and reliability of each question. A reliability coefficient of 0.60 or higher is considered "acceptable" for newly developed constructs. The Kaiser-Meyer-Olkin (KMO) and Bartlett's tests were used to assess data suitability and sampling adequacy. Requirements include a KMO measure exceeding 0.50 and a Bartlett's Test of Sphericity below 0.05. Results in Table 1 meet all the conditions for factor analysis.

Table 1: KMO and Bartlett's test

Section	Kaiser-Meyer-Olkin Measure of Sampling Adequacy	Bartlett's Test of Sphericity		
		Approx. Chi-Square	df	Sig.
Student Challenges in Respect of Student Loan Debt	0.948	3494.821	66	0.000
Consumer Rights in Terms of the Consumer Protection Act - Awareness	0.762	486.390	6	0.000
Consumer Rights in Terms of the Consumer Protection Act - Agreement	0.863	2220.750	6	0.000

Respondents were asked whether they were aware of the amount of student loan debt they presently owed. The majority (52.3%) were not aware of the amount they owed, while only 47.7% were aware.

Awareness of the consequences of unpaid student loan debt

Student loan debt generally has certain consequences for students. Students were asked to indicate whether they were aware of eight areas pertaining to the consequences of unpaid student loans. The results are indicated in Table 2.

Table 2: Awareness of the consequences of unpaid student loan debt

Statements relating to awareness of the consequences of unpaid student loan debt	% Aware	% Unaware
Students may face financial constraints and find themselves drowning in student loan debt.	37,9	62,1
There may be an increase in emotional/mental health problems.	30,1	69,9
Students may be disqualified from prospective jobs.	31,7	68,3
Students are unable to save money for the future.	30,7	69,3
Students acquire a bad credit score/record.	42,5	57,5
Students are "blacklisted", i.e. they are denied credit because they have a poor credit record.	37,9	62,1
Students are prevented from graduating.	27,8	72,2
The student may be unable to complete studies or, if completed, the university will withhold the certification.	33,7	66,3

The majority of respondents (66.3%) were unaware that they may not complete their studies or receive certification if they have unpaid debt. Bozalek and Boughey (2012) confirm that institutions often block students from continuing their education or pursuing post-graduate degrees by withholding results. An empirical study by Sekhukhune (2008, cited in Johnson, 2019) reinforces this by showing that NSFAS's inability to fully cover unpaid costs forced 5 out of 10 participants to discontinue their studies. Between 2010 and 2020, over 100,000 qualifications were withheld due to unpaid debts (Chabana, 2019). Sobuwa (2020) further reveal that many students completed their courses but are unable to access their degrees because of outstanding fees. Additionally, 72.2% were unaware that unpaid student loan debt could delay graduation, as confirmed by Macupe (2013). The majority were also unaware of potential blacklisting (62.1%), poor credit records (57.5%), challenges in saving for the future (69.3%), or securing jobs (68.3%) due to unpaid student loan debt. Tandwa (2016) reports that NSFAS urged former recipients to devise repayment plans to avoid blacklisting, which complicates their ability to save for the future (Farrington, 2019). Employers may also reject candidates based on their credit history (El-Sharawy, 2020).

The majority (69.9%) of students were unaware of the emotional and mental health impacts of student loan debt, not realising that debt could increase stress and other issues, and 62.1% did not foresee financial difficulties. Nissen *et al*. (2019) affirm that the long-term repayment of student loans can harm mental health. Letseka and Maile (2008, cited in Garwe and Maganga, 2015) found that financial hardship caused 70% of university dropouts in South Africa, highlighting the need for a greater awareness of student debt consequences. Other consequences that respondents reported were: feelings of depression and stress due to the burden of student loan debt; that they had to drop out of their studies; that they faced financial challenges when trying to return; and that the debt negatively affected their reputation.

Student challenges in respect of student loan debt

Respondents were prompted to respond on their level of agreement to statements relating to the challenges related to student loan debt. The data is visually presented in Figures 1 and 2 below.

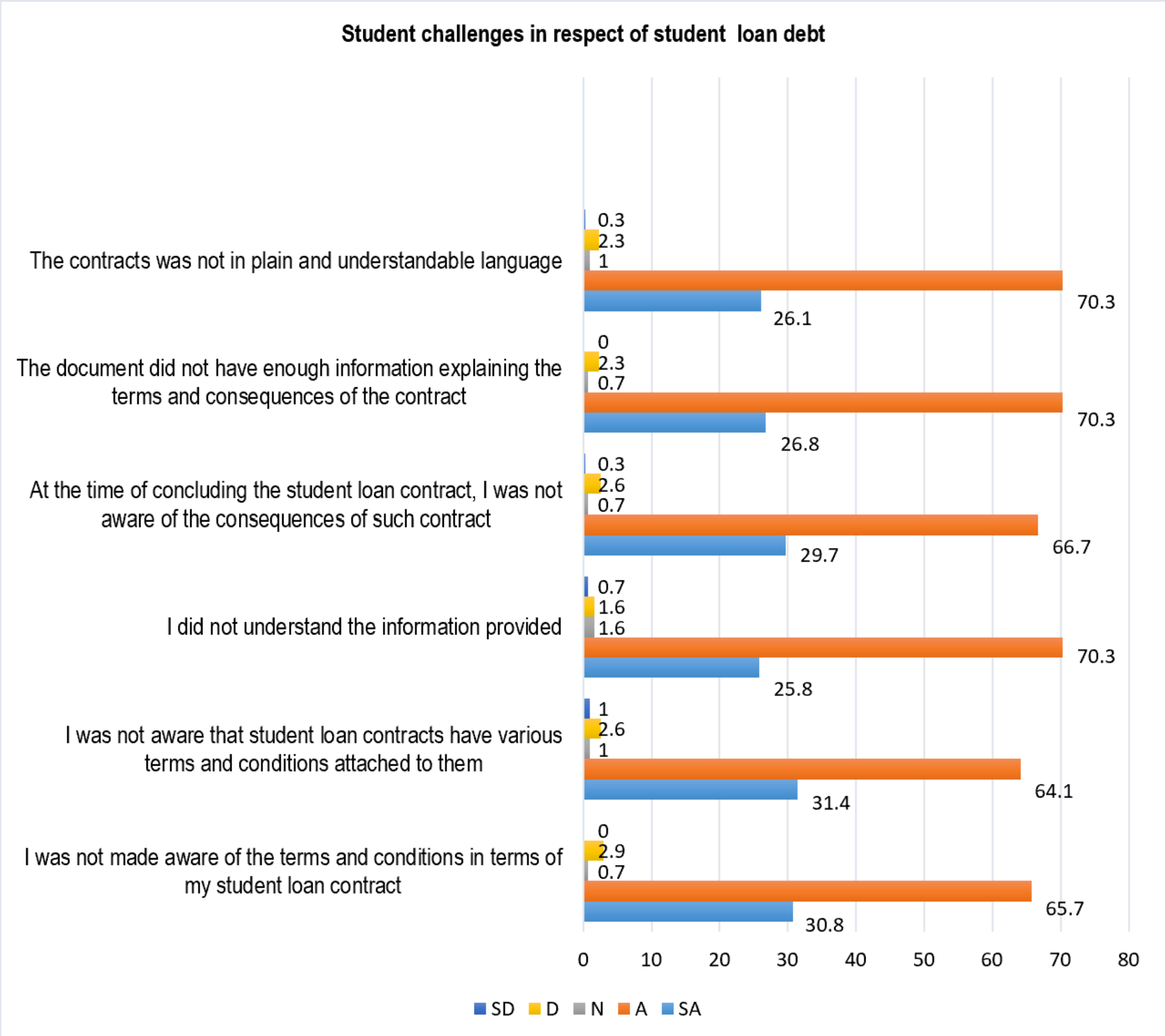

Figure 1: Student challenges in respect of student loan debt – Part A

As shown in Figure 1, most of the respondents (96.4%) found their student loan contracts unclear, despite CPA requirements for plain language (Cornelius, 2015). Despite Universities having a duty to simplify the terms of contracts for the students (Reddy, 2012), this is not always the case as students are not aware of their rights (Stoop, 2013). February (2018) asserts that many students struggled to understand their loan agreements. The majority (97.1%) agreed that contracts lacked sufficient information and 96.4% were unaware of consequences when signing. This finding is supported by Jayiya (2017). Most respondents (96.1%) did not understand the information provided in student loan contracts, and 95.5% were unaware of the terms and conditions. Vijayakumar and Subburaj (2010) found that most respondents signed loan contracts without knowing the terms. Similarly, the majority (96.5%) affirmed that they were not informed about the terms and conditions of their student loan arrangements. Mapunda (2019) confirms that many student loan beneficiaries were also unaware of the contract terms. There is clear indication that the respondents faced specific challenges with respect to the student loan contracts that they concluded.

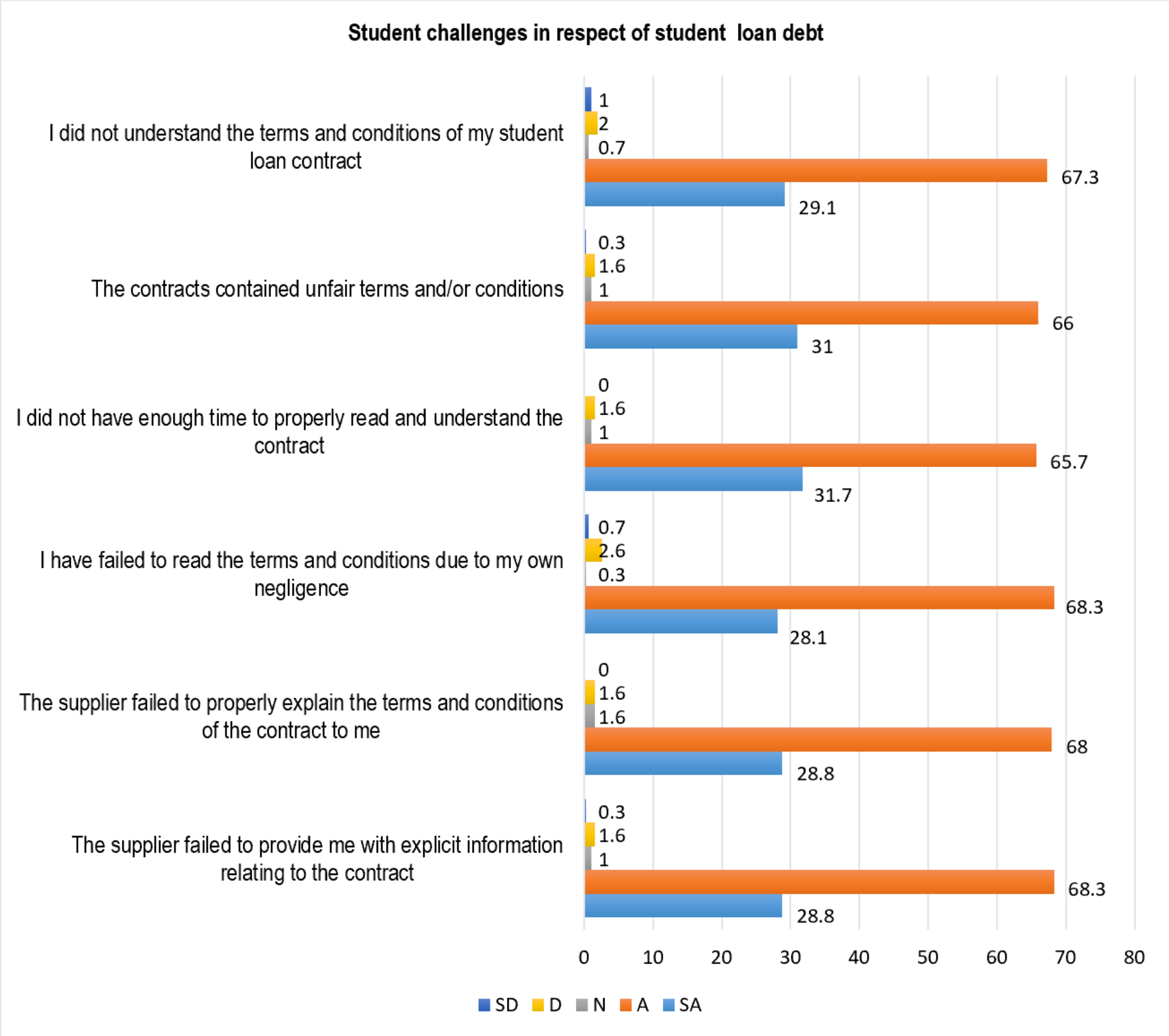

Figure 2: Student challenges in respect of student loan debt – Part B

Figure 2 shows that 94.4% of respondents did not understand their student loan terms, and 97% agreed that the contracts contained unfair terms and conditions. Jayiya (2017) and Kanamugire (2013) confirm that standard form contracts often have hidden unfair terms and conditions. Additionally, 97.4% lacked the time to read and adequately understand the contracts, and 96.4% admitted to not reading them due to neglect. Kanamugire (2013) notes that student loan contracts are lengthy, hence students fail to read them, and Vijayakumar and Subburaj (2010) found that most participants signed without reading.

The CPA has various implications for students with regard to their student loan contractual challenges. This section summarises such effects under sub-themes:

Respondents' awareness of selected consumer rights in the CPA

The majority of students were unaware of their rights under the CPA 68 of 2008, including the right to privacy (76.1%); the right to fair and honest dealing (76.1%); the right to fair, just and reasonable terms and conditions (76.1%); and the right to disclosure and information (76.1%). Van Schalkwyk (2014) highlights that the right to privacy provision protects consumers against unwanted and unsolicited marketing. Telicka (2004) affirms the consumer's right to fair and honest dealing, which prohibits deception through false, misleading or fraudulent schemes. Jacobs *et al*. (2010) state that the right to fair, reasonable or just terms and conditions prohibits providers from offering products or services under unfair, unreasonable or unjust terms. Mugobo and Malunga (2015) note that this lack of awareness leaves consumers vulnerable. Clearly, many of the respondents lacked awareness of consumer rights, which reduces the significance of the rights granted by legislation.

Respondents' understanding of selected rights in the CPA

The majority of respondents lacked an understanding of key consumer rights under the CPA, including the right to privacy (76.1%), the right to fair and honest dealing (76.1%), the right to fair, just and reasonable terms and conditions (77.5%), and the right to disclosure and information (77.4%). Stoop (2013) notes that widespread unawareness of consumer rights is rendering consumer protection regulations ineffective as consumers find it difficult to understand and apply the information provided. In response to an open-ended question about other challenges they faced due to student loan debt, respondents also cited challenges like insufficient funding for their studies; payment delays leading them to borrow money, thereby increasing their overall debt; that pressure from student loans contributed to them dropping out, or in extreme cases, considering suicide; that access to academic records were restricted; and that it posed an obstacle when seeking employment.

Conclusion

The following conclusions were drawn with respect to the challenges experienced: student loan contracts were not in plain and understandable language; the document did not have sufficient information explaining the terms and consequences of the contract; and students were not aware of the consequences of such contracts when they concluded it. Additionally, students did not understand the information provided; the student loan contracts had various terms and conditions attached to them, of which they were unaware; and students did not understand the terms and conditions in their student loan contracts. Furthermore, the contracts contained unfair terms and/or conditions. Students also had insufficient time to properly read and understand the contract; the lenders had failed to properly explain the terms and conditions of the contract to the respondent; and the lenders had failed to provide them with explicit information relating to the contract. With respect to the awareness of specific consumer rights in the CPA, the respondents were unaware that they had a legal right to privacy, and that they had a legal right to fair and honest dealings. They were also unaware that they had the right to fair, just and reasonable terms and conditions, as well as their right to disclosure and information as consumers. Therefore, respondents did not have any understanding of several of the consumer rights set out in the CPA, namely the right to privacy; the right to fair and honest dealing; the right to fair, just and reasonable terms and conditions; and the right to disclosure and information. The lack of consumer awareness leaves many vulnerable to unfair business practices by suppliers, highlighting the need for improved communication of rights and obligations to loan beneficiaries. With respect to the possible measures to protect students as consumers and enhance the overall student loan situation, it is crucial for government, HEIs and regulatory bodies to develop consumer education programmes in order to enhance the understanding of these rights. Financial counselling and education should be provided to loan beneficiaries before approval, along with access to workshops on consumer protection laws. Additionally, easy access to legal assistance is essential for understanding contract terms. The integration of consumer protection laws into academic programmes can further promote awareness and understanding amongst students.

References

Barnes, W. R. 2012. Social Media and the Rise in Consumer Bargaining Power. *University of Pennsylvania Journal of Business Law,* 14(3): 661-699.

Blumberg, Y. 2018. Your Credit Report Can Keep You from Getting a Job-Here's How. Available: https://www.cnbc.com/2018/06/29/how-your-credit-report-can-keep-you-from-getting-a-job.html (Accessed 14 April 2022).

Bozalek, V. and Boughey, C. 2012. (Mis)Framing Higher Education in South Africa. *Social Policy and Administration*, 46(6): 688-703.

Chabana, C. 2019. Universities Should Not Withhold Certificates from Impoverished Graduates. Available: https://www.dailymaverick.co.za/opinionista/2019-01-30-universities-should-not-withhold-certificates-from-impoverished-graduates/ (Accessed 05 April 2020).

Cornelius, E. 2015. Defining 'Plain Language' in Contemporary South Africa. *Stellenbosch Papers in Linguistics*, 44: 1-18.

Dana Z. 2015. My Studies Have Left Me R223K in Debt. Available: https://www.iol.co.za/news/south-africa/western-cape/my-studies-have-left-me-r223k-in-debt-1938010 (Accessed 26 February 2020)

De Gayardon, A., Callender, C., Deane, K. C. and DesJardins, S. 2018. Graduate Indebtedness: Its Perceived Effects on Behaviour and Life Choices – A Literature Review. Available: https://www.researchcghe.org/publication/graduate-indebtedness-its-perceived-effects-on-behaviour-and-life-choices-a-literature-review/ (Accessed 2 February 2021).

De Stadler, E. and Van Zyl, L. 2017. Plain-Language Contracts: Challenges and Opportunities. *South African Mercantile Law Journal*, 29(1): 95-126.

De Villiers, P., 2017. The Poor and Access to Higher Education in South Africa: The NSFAS Contribution. Unpublished Paper, Stellenbosch University Department of Economics.

El-Sharawy, Y. 2020. An Insight on Credit Checks for Employment Purposes: The Numerous Issues Associated and the Comprehensive Credit Act of 2020. Available: https://journals.flvc.org/FAU_UndergraduateLawJournal/article/view/121973 (Accessed 11 June 2024).

Elshout, M., Elsen, M., Leenheer, J., Loos, M. and Luzak, J. 2016. *Study on Consumers' Attitudes towards Terms and Conditions* (Tandcs). Brussels: European Commission.

Farrington, R. 2019. How Student Loans Impact Your Credit Score. Available: https://www.forbes.com/sites/robertfarrington/2019/12/18/how-student-loans-impact-your-credit-score/#6686c5495752 (Accessed 05 April 2024).

February, T. 2018. What SA Students Should Know before Taking Out a Student Loan. Available: https://www.news24.com/Life/what-south-african-students-should-know-before-taking-out-a-student-loan-20180726 (Accessed 06 April 2020).

Fitzroy, K. 2011. The Statutory Reintroduction of a Defence Similar to the Exceptio Doli Generalis? Master's Dissertation, University of Pretoria.

Fogel, R. 2019. Informal Housing, Poverty, and Legacies of Apartheid in South Africa. Available: https://urban.uw.edu/news/informal-housing-poverty-and-legacies-of-apartheid-in-south-africa/ (Accessed 09 June 2023).

Freiman, C. 2012. Why Poverty Matters Most: Towards a Humanitarian Theory of Social Justice. *Utilitas*, 24(1): 26-40.

Gair, S. and Baglow, L. 2018. Social Justice in a Tertiary Education Context: Do We Practice What We Preach? *Sage Journals*, 13(3): 207-216.

Garwe, E. C. and Maganga, E. 2015. The Effect of Student Financial Constraints on University Non-Completion Rates. *International Journal of Education*, 7(2): 322-336.

Govender, V. 2017. Consumer Protection and Service Delivery by the Retail Industry in The Greater Durban Area: The Legal Implications of the Consumer Protection Act 68 of 2008. Master's Dissertation, Durban University of Technology.

Govinden, K. 2012. Against the Strict Application of the Caveat Subscriptor Rule in the Context of Contracts of Necessity. Master's Dissertation, University of Kwa-Zulu Natal.

Greene, E. 2024. Student Loan Debt is the Roadblock to Homeownership and Deferred Dreams. Available: https://www.culturebanx.com/cbx-daily/student-loan-debt-is-the-roadblock-to-homeownership-deferred-dreams/ (Accessed 27 November 2024).

Hesse, M. 2017. Student Loans: What Are Your Options? Available: https://www.iol.co.za/personal-finance/student-loans-what-are-your-options-9300329 (Accessed 08 March 2020).

Hlalele, D. and Alexander, G. 2016. University Access, Inclusion and Social Justice. *South African Journal of Higher Education*, 26(3): 487-502.

Jackson, R. 2002. The National Student Financial Aid Scheme of South Africa (NSFAS): How and Why it Works. *The Welsh Journal of Education*, 11(1): 82-94.

Jacobs, W., Stoop, P. and Van Niekerk, R. 2010. Fundamental Consumer Rights Under the Consumer Protection Act 68 Of 2008: A Critical Overview and Analysis. *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad*, 13(3): 301-406.

Janko, Z and Popli, G. 2015. Examining the Link between Crime and Unemployment: A Time-Series Analysis for Canada. *Applied Economics*, 47(37): 4007-4019.

Jayiya, L. 2017. The Credit Provider's Duty in Terms of the National Credit Act 34 Of 2005 to Conduct a Pre-Agreement Assessment. Master's Dissertation, University of KwaZulu-Natal.

Johnson, D. M. 2019. What Will It Take to Solve the Student Loan Crisis? Available: https://hbr.org/2019/09/what-will-it-take-to-solve-the-student-loan-crisis (Accessed 28 September 2020).

Kanamugire, J. C. 2013. The Future of Standard Form Contracts in South Africa with Particular Reference to Recent Developments in the Law. *Mediterranean Journal of Social Sciences*, 4(13): 335-352.

King, N. 2019. More Than Half of South Africa's Youth Cannot Fund their Tuition. Available: https://www.thesouthafrican.com/news/south-africa-youth-university-fees-stats-2019/ (Accessed0 5 April 2020).

Leibbrandt, M. 2021. The Human Tragedy of South Africa's Inequality. Available: https://www.newframe.com/the-human-tragedy-of-south-africas-inequality/ (Accessed 09 June 2023).

Mabuza, E. 2019. Universities to Be Paid Nearly R1bn for Historic Student Debt: Naledi Pandor. Available: https://www.timeslive.co.za/news/south-africa/2019-03-24-universities-to-be-paid-nearly-r1bn-for-historic-student-debt-naledi-pandor/ (Accessed 26 February 2020).

Macupe, B. 2019. Universities to be Made More Affordable. Available: https://mg.co.za/article/2019-10-04-universities-to-be-made-more-affordable/ (Accessed 11 June 2024).

Mafuwane, B. M. 2011. The Contribution of Instructional Leadership to Learner Performance. Doctoral dissertation, University of Pretoria.

Manik, S. 2014. Shifting the Discourse: Student Departure in the Context of Relative Deprivations. *South African Journal of Higher Education*, 28(1): 148-163.

Mapunda, M. A. 2019. Challenges Facing Higher Education Students' Loans Board in Loan Recovery: The Case of Selected Universities in Tanzania. *Business Education Journal,* 3(1): 1-8.

Mason, R. B. 2007. Consumer Protection Awareness in South Africa. Available: https://openscholar.dut.ac.za/handle/10321/3358 (Accessed 20 July 2022).

Mathibe, M and Zhou, H. 2023. Restless Prejudice: Is Higher Education a Right or Privilege? Available: https://mg.co.za/thought-leader/opinion/2023-03-24-restless-prejudice-is-higher-education-a-right-or-privilege/ (Accessed 16 September 2024).

Mogaji, E., Czarnecka, B., Danbury, A. and Farquhar, J. 2019. How We Are Tempted into Debt: Emotional Appeals in Loan Advertising in UK Newspapers. *International Journal of Bank Marketing,* 38: 756-776.

Mokgotho, M. G., Njoko, M. B. and Burman, C. J. 2023. Assessing the Utility of the National Student Financial Aid Scheme towards Skills Development: A Case of a Rural University in South Africa. *South African Journal of Higher Education*, 37(6): 76-91.

Mugobo, V. V. and Malunga, P. 2015. Consumer Protection in South Africa: Challenges and Opportunities for Furniture Retailers in Cape Town, South Africa. *Mediterranean Journal of Social Sciences*, 6(1): 224-232.

Mzangwa, S. T. 2019. The Effects of Higher Education Policy on Transformation in Post-Apartheid South Africa. *Cogent Education*, 6(1): 1-15.

Naidoo, A. and McKay, T. J. M. 2018. Student Funding and Student Success: A Case Study of a South African University. *South African Journal of Higher Education*, 32(5): 158-172.

Naidu, E. 2021. Escalating Student Debt Deepens Universities' Funding Crisis. Available: https://www.universityworldnews.com/post.php?story=20210318090703152 (Accessed 25 May 2023).

Naudé, T. 2009. The Consumer's 'Right to Fair, Reasonable and Just Terms' under the New Consumer Protection Act in Comparative Perspective. *South African Law Journal*, 126: 505-536.

Newman, S. 2010. The Influence of Plain Language and Structure on the Readability of Contracts. *Obiter* 31(3): 735-45.

Nissen, S., Hayward, B. and McManus, R. 2019. Student Debt and Wellbeing: A Research Agenda. *Kōtuitui: New Zealand Journal of Social Sciences Online*, 14(2): 245-256.

Ocampo, M. L. 2004. A Brief History of Educational Inequalities from Apartheid to the Present. Global Perspectives on Human Language: The South African Context. *Journal of Educational Psychology*, 94(3): 638-645.

Odhav, K. 2009. South African Post-Apartheid Higher Education Policy and Its Marginalisations: 1994-2002. *SA-eDUC JOURNAL*, 6(1): 33-57.

Priya, P. N. and Sundaram, A. P. 2022. A Study on Level of Awareness of College Students on Consumer Protection Practices. *International Journal of Commerce and Management Research*, 4(1): 48-51.

Reddy, K. 2012. Students as Consumers: The Implications of the Consumer Protection Act for Higher Education Institutions in South Africa. *South African Journal of Higher Education*, 26(3): 586-605.

Richardson, M., Evans, C. and Gbadamosi, G. 2009. Funding Full-Time Study through Part-Time Work. *Journal of Education and Work*, 22(4): 319-334.

Safier, R. 2018. Survey: Majority of Student Loan Borrowers Don't Know How Interest or Forgiveness Works. Available: https://www.lendingtree.com/student/student-loan-borrowers-know-how-interest-forgiveness-works-survey/ (Accessed10 August 2021).

Sekaran, U. and Bougie, R. 2016. *Research Methods for Business: A Skill-Building Approach*. 7th ed. Chichester, West Sussex, UK: John Wiley and Sons.

Shange, N. 2015. Experiences of Students Facing Financial Difficulties to Access Higher Education in the Case of the University of KwaZulu-Natal. Master's Dissertation, University of KwaZulu-Natal.

Sharrock, R. D. 2010. Judicial Control of Unfair Contract Terms: The Implications of Consumer Protection Act. *South African Mercantile Law Journal,* 22: 295-325.

Sobuwa, Y. 2020. University Withholds in Debt Students' Qualifications. Available: https://www.sowetanlive.co.za/news/south-africa/2020-03-09-university-withholds-in-debt-students-qualifications/ (Accessed 14 April 2022).

South Africa. 2005. National Credit Act 34 of 2005. Cape Town: Government Printer. Available: https://www.justice.gov.za/mc/vnbp/act2005-034.pdf (Accessed 17 June 2023).

South Africa. 2008. Consumer Protection Act 68 of 2008. Pretoria: Government Printer. Available: https://www.gov.za/sites/default/files/32186_467.pdf (Accessed 19 May 2022).

Stoop, P. N. 2013. Disclosure as an Indirect Measure Aimed at Preventing Over-Indebtedness. *International Journal of Finance and Policy Analysis*, 6(1): 1-11.

Stoop, P. N. and Churr, C. 2013. Unpacking the Right to Plain and Understandable Language in the Consumer Protection Act 68 of 2008. *Potchefstroom Electronic Law Journal*, 16(5): 514-553.

Swaniker, F. 2017. A Harambee System to Pay for Higher Education? Available: https://african.business/2020/11/technology-information/a-harambee-system-to-pay-for-higher-education (Accessed 12 January 2023).

Tandwa, L. 2016. We Will Blacklist Non-Paying Students - NSFAS. Available: https://m.news24.com/SouthAfrica/News/we-will-blacklist-non-paying-students-nsfas-20160121 (Accessed 05 April 2020).

Telicka, P. 2004. Principles of Consumer Protection in Europe. European Consumer Consultative Group Meeting. Available: https://www.europeansources.info/record/speech-principles-of-consumer-protection-in-the-eu/ (Accessed 8 March 2020).

Tjønneland, E. N. 2017. Crisis at South Africa's Universities – What are the Implications for Future Cooperation with Norway? *CMI BRIEF*, 16(3): 1-4.

Vaicondam, Y. and Wen, H. O. 2020. Education Loan Repayment Intention. *International Journal of Psychosocial Rehabilitation*, 24(1): 758-765.

Van der Merwe, C. 2022. South Africa's Student Debt Mountain Grows to R16.5bn. Available: https://www.researchprofessionalnews.com/rr-news-africa-south-2022-3-south-africa-s-student-debt-mountain-grows-to-r16-5bn/ (Accessed 14 April 2022).

Van Schalkwyk, P. J. 2014. Vaal Triangle Independent Retailers' Perceived Awareness Versus Actual Knowledge of the Consumer Protection Act. Master's dissertation, North-West University.

Vijayakumar, M. and Subburaj, B. 2010. An Empirical Study of Consumer Awareness on Home Loan Agreement. *European Journal of Economics, Finance and Administrative Sciences*, 20: 7-14.

Webb, C. 2019. Liberating the Family: Education, Aspiration and Resistance among South African university Students. Doctoral dissertation, University of Toronto.

Wilson-Strydom, M. 2011. University Access for Social Justice: A Capabilities Perspective. *South African Journal of Education*, 31: 407-418.

Woker, T. 2010. Why the Need for Consumer Protection Legislation? A Look at Some of the Reasons behind the Promulgation of the National Credit Act and the Consumer Protection Act. *Obiter*, 31(2): 217-231.

Yanbarisova, D. 2015. The Effects of Student Employment on Academic Performance in Tatarstan Higher Education Institutions. *Russian Education and Society,* 57: 459-482.

Yende, S. J. 2021. Funding Opportunities and Challenges: A Case of South African Institutions of Higher Learning. *Journal of Public Administration*, 56(1): 70-79.

Yende, S. J. and Mthombeni, Z. 2023. The Cost of Equality: Analyzing the Unforeseen Financial Strains of Fee-Free Higher Education in South Africa. *E-Journal of Humanities, Arts and Social Sciences*, 4(11): 1380-1390.